

HOUSE BILL 70

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2lr0577
CF SB 14

By: **Delegate Kach**

Introduced and read first time: January 16, 2012

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2012

CHAPTER _____

1 AN ACT concerning

2 **State Board of Morticians and Funeral Directors – Examinations of**
3 **Applicants and Licensees**

4 FOR the purpose of ~~requiring~~ authorizing the State Board of Morticians and Funeral
5 Directors to require certain applicants or licensees to submit to a mental or
6 physical examination under certain circumstances; ~~providing that certain~~
7 ~~applicants or licensees are deemed to have consented to submit to a certain~~
8 ~~examination and to have waived a certain claim of privilege under certain~~
9 ~~circumstances;~~ providing that a certain report ~~or testimony~~ of a certain health
10 care practitioner is confidential, except under certain circumstances; ~~providing~~
11 ~~that the failure or refusal of a certain applicant or licensee to submit to a~~
12 ~~certain examination is prima facie evidence of the inability to practice mortuary~~
13 ~~science or funeral direction competently, unless the Board makes a certain~~
14 ~~finding;~~ requiring certain applicants or ~~licensees~~ the Board to pay the
15 reasonable cost of certain examinations; and generally relating to the authority
16 of the State Board of Morticians and Funeral Directors to require examinations.

17 BY adding to

18 Article – Health Occupations

19 Section 7–208 and 7–319(h)

20 Annotated Code of Maryland

21 (2009 Replacement Volume and 2011 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Health Occupations

7-208.

~~(A) IF, WHILE REVIEWING AN APPLICATION FOR LICENSURE, INVESTIGATING AN ALLEGATION BROUGHT AGAINST A LICENSEE UNDER THIS TITLE, OR INSPECTING A FACILITY OF A LICENSEE, THE BOARD FINDS REASONABLE EVIDENCE INDICATING THAT THE APPLICANT OR LICENSEE CANNOT PRACTICE MORTUARY SCIENCE OR FUNERAL DIRECTION COMPETENTLY, THE BOARD SHALL REQUIRE THE APPLICANT OR LICENSEE TO SUBMIT TO A MENTAL OR PHYSICAL EXAMINATION BY A HEALTH CARE PRACTITIONER DESIGNATED BY THE BOARD.~~

~~(B) IN RETURN FOR THE PRIVILEGE TO PRACTICE MORTUARY SCIENCE OR FUNERAL DIRECTION IN THE STATE, AN APPLICANT OR A LICENSEE IS DEEMED TO HAVE:~~

~~(1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS SECTION, IF REQUESTED BY THE BOARD IN WRITING; AND~~

~~(2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE EXAMINATION REPORT OR TESTIMONY REGARDING THE REPORT.~~

(A) THE BOARD MAY REQUIRE AN APPLICANT OR LICENSEE TO SUBMIT TO A MENTAL OR PHYSICAL EXAMINATION BY A HEALTH CARE PRACTITIONER DESIGNATED BY THE BOARD, IF:

(1) WHEN INVESTIGATING AN ALLEGATION BROUGHT AGAINST AN APPLICANT OR LICENSEE UNDER THIS TITLE, THE BOARD FINDS REASONABLE EVIDENCE INDICATING THAT THE APPLICANT OR LICENSEE CANNOT PRACTICE MORTUARY SCIENCE OR FUNERAL DIRECTION COMPETENTLY;

(2) THE BOARD:

(i) MAKES A WRITTEN REQUEST FOR THE APPLICANT OR LICENSEE TO SUBMIT TO THE EXAMINATION;

(ii) PROVIDES THE APPLICANT OR LICENSEE WITH A LIST OF THREE HEALTH CARE PRACTITIONERS FROM WHICH THE APPLICANT MAY CHOOSE A HEALTH CARE PRACTITIONER TO CONDUCT THE EXAMINATION; AND

1 (III) PAYS THE COST OF THE EXAMINATION IN ACCORDANCE
 2 WITH SUBSECTION (C) OF THIS SECTION; AND

3 (3) THE APPLICANT OR LICENSEE:

4 (I) CONSENTS TO SUBMIT TO THE EXAMINATION; AND

5 (II) WAIVES ANY CLAIM OR PRIVILEGE AS TO THE
 6 EXAMINATION REPORT.

7 ~~(C) (B)~~ A REPORT OR TESTIMONY REGARDING A REPORT AN
 8 EVALUATION REPORT OF A HEALTH CARE PRACTITIONER DESIGNATED BY THE
 9 BOARD IS CONFIDENTIAL EXCEPT AS TO CONTESTED CASE PROCEEDINGS AS
 10 DEFINED BY THE ADMINISTRATIVE PROCEDURE ACT.

11 ~~(D) THE UNREASONABLE FAILURE OR REFUSAL OF AN APPLICANT OR A~~
 12 ~~LICENSEE TO SUBMIT TO AN EXAMINATION REQUIRED UNDER THIS SECTION IS~~
 13 ~~PRIMA FACIE EVIDENCE OF THE APPLICANT'S OR LICENSEE'S INABILITY TO~~
 14 ~~PRACTICE MORTUARY SCIENCE OR FUNERAL DIRECTION COMPETENTLY,~~
 15 ~~UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE~~
 16 ~~CONTROL OF THE APPLICANT OR LICENSEE.~~

17 ~~(E) (C)~~ (1) (I) AN SUBJECT TO SUBPARAGRAPH (II) OF THIS
 18 PARAGRAPH, AN APPLICANT OR A LICENSEE WHO DOES NOT HOLD A VALID
 19 LICENSE WITH THE BOARD SHALL PAY THE REASONABLE COST OF ANY
 20 EXAMINATION MADE UNDER THIS SECTION.

21 (II) IF THE APPLICANT IS DEEMED COMPETENT TO
 22 PRACTICE MORTUARY SCIENCE OR FUNERAL DIRECTION AS A RESULT OF THE
 23 EVALUATION, THE BOARD SHALL REIMBURSE THE APPLICANT FOR THE
 24 REASONABLE COST OF THE EVALUATION THAT WAS PERFORMED.

25 (2) THE BOARD SHALL PAY THE REASONABLE COST OF AN
 26 EXAMINATION MADE UNDER THIS SECTION FOR A LICENSEE OF THE BOARD.

27 7-319.

28 (H) IF THE BOARD ORDERS THE SUSPENSION OF A LICENSE IN
 29 ACCORDANCE WITH § 10-226(C)(2) OF THE STATE GOVERNMENT ARTICLE, THE
 30 BOARD SHALL NOTIFY THE LICENSEE OF THE SUSPENSION WITHIN 48 HOURS
 31 AFTER THE BOARD MAKES THE DETERMINATION TO ORDER THE SUSPENSION.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 33 October 1, 2012.